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FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			BRANDENBURG, WILLIAM A	
			ART UNIT	PAPER NUMBER
			3622	
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			01/26/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary

Application No.

10/676,369

Applicant(s)

AGARWAL ET AL.

Examiner

WILLIAM A. BRANDENBURG

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
4a) Of the above claim(s) 1-8 and 25-32 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 9-24 and 33-49 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date 05/21/2009
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The following is a Final Office Action in response to communications received on 10/09/2009. No claims have been cancelled. Claims 9, 17, 33, 35-36, 39, 41, 43-44 and 47-49 have been amended. No claims have been added. Therefore, claims 1-49 are pending and addressed below. Claims 1-8 and 25-32 have been withdrawn.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 05/21/2009 was filed after the mailing date of the Final Rejection on 11/03/2009. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Objections

3. Claims 40 and 44 are objected to because of the following informalities:

Claim 33, the parent claim of claim 40, was amended to remove "means for determining". The subsequent depending claims were amended to correctly reflect this change, however,

claim 40 still contains "the means for determining". This was an obvious clerical oversight, as claim 40 was cited as "currently amended" in the submission on 10/09/2009. This recitation should have been amended similarly to claim 39 to recite "wherein the processor uses...".

Claim 44 recites "the the processor uses..." The underlined "the" should be removed.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The amendment filed on 10/09/2009, has corrected the 35 U.S.C. 112 deficiencies identified in the Office Action dated 06/11/2009. Thus, the Examiner hereby withdraws the 35 U.S.C. 112 first and second paragraph rejections of claims 9, 17, 33, 41 and 49 that were raised in the Office Action dated 06/11/2009.

Claim Rejections - 35 USC § 101

5. The amendment filed on 10/09/2009, has corrected the 35 U.S.C. 101 deficiencies identified in the Office Action dated

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06/11/2009. Thus, the Examiner hereby withdraws the 35 U.S.C. 101 rejections of claims 33 and 41 that were raised in the Office Action dated 06/11/2009.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. **Claims 9-16, 19-20, 23-24, 33-40, 43-44 and 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blaser et al. (US 6,757,661 B1) (hereinafter Blaser).**
7. Please note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the

intended use, then it meets the claim. See *e.g. In re Collier*, 158 USPQ 266, 267 (CCPA 1968) (where the court interpreted the claimed phrase "a connector member for engaging shield means" and held that the shield means was not a positive element of the claim since "[t]here is no positive inclusion of 'shield means' in what is apparently intended to be a claim to structure consisting of a combination of elements."

As a courtesy, the Examiner has analyzed the claim language and phrasing as indicated by the bolded and italicized sections or words below, and determined that the phrasing following the bolded and italicized word(s) is not required due to the terminology being intended user or expected results, in conformity with MPEP § 2111.04.

8. As per claim 9, Blaser discloses a computer-implemented method for determining a score of an ad, the method being performed on a host and comprising:

receiving, using the host, local time of interest information associated with a request, wherein the local time of interest information is ***configured to support differences between*** a local time for a remote computer and a local time

for the host and wherein the local time of interest information describes the local time for the remote computer (column 3, lines 39-47, ad server receives information about user, see also col. 4, lines 50-67, advertisements targeted and sent to users based on the user's geographic location and scheduling requirements of the ads, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements) (The Examiner understands that if Blaser is obtaining user information including geographic information and the serving of advertisements is controlled by time of day scheduling requirements, Blaser must obtaining local time information of the user. Otherwise, the serving constraint of "time of day" (e.g. 2:00 pm daily) would be completely negligible, as it would always be 2:00 pm somewhere, regardless of the end user's location, thus resulting in the advertisement always being served. As such, the Examiner contends this understanding is reasonable and this particular limitation has been satisfied by Blaser.)).

Blaser does not explicitly disclose

accessing, using the host, an ad associated with local time of interest price information, the local time of interest

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price information indicating a price for an ad in association with a local time;

determining, using the host, whether the local time of interest price information for the ad is related to the received local time of interest information; and

if it is determined that the local time of interest price information for the ad is related to the received local time of interest information, then using the host to determine a score for the ad using at least the local time of interest price information.

However, Blaser teaches receiving information from the client to determine which information should be sent to the client (column 6, lines 19-27). The data sent to the users has scheduling requirements including the time of day to send (column 6, lines 56-65). The advertisement table includes the preferred times of day at which the advertisement is displayed to users as well as performance information (column 10, lines 12-32). A playlist, containing ad objects, specifies an order in which the advertisements identified in the play list are to be displayed. The playlist also specifies the amount of time that each advertisement is to be displayed (column 10, lines 51-63). In addition, Blaser teaches a direct correlation

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between ad performance and advertiser pricing criterion
(column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed in Blaser. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is a common practice in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI). The Examiner notes that although Blaser does not explicitly teach prices associated with time, the teachings with regards to the serving the ads at particular times substantiate the fact the advertisers have essentially bid for serving ads only at those particular times. For any other time, the bid associated with those ads can be considered zero, as there are no ads served. As such, it would be obvious for Blaser to include specific price information to ensure cost-effectiveness.

9. As per claim 10, Blaser discloses the method of claim 9 wherein

the local time of interest information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range (column 6, lines 56-62, first and last days to send), (f) at least one local day-of-week range, and (g) at least one local season.

10. As per claim 11, Blaser discloses the method of claim 9 (as rejected above). Blaser further discloses wherein the act of determining the score further comprises

using at least ad performance information (column 13, lines 9-16, OSP compares performance records with target criteria in Ad Performance table).

11. As per claim 12, Blaser discloses the method of claim 9 (as rejected above). Blaser further discloses wherein the act of determining the score further comprises

using at least local time of interest ad performance information (column 10, lines 12-31, Advertisement table includes preferred times of day to display advertisement).

12. As per claim 13, Blaser discloses the method of claim 9 (as rejected above). Blaser further discloses wherein
- the local time of interest information includes end user local time information provided in the request (column 3, lines 39-47, ad server receives information about user, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements.
13. As per claim 14, Blaser discloses the method of claim 13 (as rejected above). Blaser further discloses wherein
- the end user local time information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range (column 6, lines 56-62, first and last days to send), (f) at least one local day-of-week range, and (g) at least one local season.
14. As per claim 15, Blaser discloses the method of claim 13 (as rejected above). Blaser further discloses wherein the act of determining the score further comprises

using at least ad performance information (column 13, lines 9-16, OSP compares performance records with target criteria in Ad Performance table).

15. As per claim 16, Blaser discloses the method of claim 13 (as rejected above). Blaser further discloses wherein the act of determining the score further comprises

using at least end user local time ad performance information (column 10, lines 12-31, Advertisement table includes preferred times of day to display advertisement).

16. As per claim 19, Blaser discloses the method of claim 17 (as rejected below).

Blaser does not explicitly disclose wherein

the act of determining the score further comprises using at least ad price information.

However, Blaser teaches receiving information from the client to determine which information should be sent to the client (column 6, lines 19-27). The data sent to the users has scheduling requirements including the time of day to send (column 6, lines 56-65). The advertisement table includes the

preferred times of day at which the advertisement is displayed to users as well as performance information (column 10, lines 12-32). A playlist, containing ad objects, specifies an order in which the advertisements identified in the play list are to be displayed. The playlist also specifies the amount of time that each advertisement is to be displayed (column 10, lines 51-63). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed in Blaser. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is a common practice in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI). The Examiner notes that although Blaser does not explicitly teach prices associated with time, the teachings with regards to the serving the ads at particular times substantiate the fact the advertisers have essentially

bid for serving ads only at those particular times. For any other time, the bid associated with those ads can be considered zero, as there are no ads served. As such, it would be obvious for Blaser to include specific price information to ensure cost-effectiveness.

17. As per claim 20, Blaser discloses the method of claim 17 (as rejected below).

Blaser does not explicitly disclose wherein

the act of determining the score further comprises using at least local time of interest ad price information.

However, Blaser teaches receiving information from the client to determine which information should be sent to the client (column 6, lines 19-27). The data sent to the users has scheduling requirements including the time of day to send (column 6, lines 56-65). The advertisement table includes the preferred times of day at which the advertisement is displayed to users as well as performance information (column 10, lines 12-32). A playlist, containing ad objects, specifies an order in which the advertisements identified in the play list are to be displayed. The playlist also specifies the amount of time

that each advertisement is to be displayed (column 10, lines 51-63). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed in Blaser. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is a common practice in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI). The Examiner notes that although Blaser does not explicitly teach prices associated with time, the teachings with regards to the serving the ads at particular times substantiate the fact the advertisers have essentially bid for serving ads only at those particular times. For any other time, the bid associated with those ads can be considered zero, as there are no ads served. As such, it would be obvious for Blaser to include specific price information to ensure cost-effectiveness.

18. As per claim 23, Blaser discloses the method of claim 21
(as rejected below).

Blaser does not explicitly disclose wherein the act of
determining the score further comprises
using at least ad price information.

However, Blaser teaches receiving information from the client
to determine which information should be sent to the client
(column 6, lines 19-27). The data sent to the users has
scheduling requirements including the time of day to send
(column 6, lines 56-65). The advertisement table includes the
preferred times of day at which the advertisement is displayed
to users as well as performance information (column 10, lines
12-32). A playlist, containing ad objects, specifies an order
in which the advertisements identified in the play list are to
be displayed. The playlist also specifies the amount of time
that each advertisement is to be displayed (column 10, lines
51-63). In addition, Blaser teaches a direct correlation
between ad performance and advertiser pricing criterion
(column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed in Blaser. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is a common practice in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI). The Examiner notes that although Blaser does not explicitly teach prices associated with time, the teachings with regards to the serving the ads at particular times substantiate the fact the advertisers have essentially bid for serving ads only at those particular times. For any other time, the bid associated with those ads can be considered zero, as there are no ads served. As such, it would be obvious for Blaser to include specific price information to ensure cost-effectiveness.

19. As per claim 24, Blaser discloses the method of claim 21 (as rejected below).

Blaser does not explicitly disclose wherein the act of determining the score further comprises using at least end user local time ad price information.

However, Blaser teaches receiving information from the client to determine which information should be sent to the client (column 6, lines 19-27). The data sent to the users has scheduling requirements including the time of day to send (column 6, lines 56-65). The advertisement table includes the preferred times of day at which the advertisement is displayed to users as well as performance information (column 10, lines 12-32). A playlist, containing ad objects, specifies an order in which the advertisements identified in the play list are to be displayed. The playlist also specifies the amount of time that each advertisement is to be displayed (column 10, lines 51-63). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed in Blaser. As per the teachings of Blaser, there is

a direct correlation between ad performance and advertiser pricing criterion and it is a common practice in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI). The Examiner notes that although Blaser does not explicitly teach prices associated with time, the teachings with regards to the serving the ads at particular times substantiate the fact the advertisers have essentially bid for serving ads only at those particular times. For any other time, the bid associated with those ads can be considered zero, as there are no ads served. As such, it would be obvious for Blaser to include specific price information to ensure cost-effectiveness.

20. As per claim 33, Blaser discloses an apparatus for determining a score of an ad, the apparatus comprising:

a communications interface for receiving local time of interest information associated with a request, wherein the local time of interest information is ***configured to support differences between*** a local time for a remote computer and a local time for the host and wherein the local time of interest information describes the local time for the remote computer

(Figure 2, "120", see also column 3, lines 39-47, ad server receives information about user, see also col. 4, lines 50-67, advertisements targeted and sent to users based on the user's geographic location and scheduling requirements of the ads, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements) (The Examiner understands that if Blaser is obtaining user information including geographic information and the serving of advertisements is controlled by time of day scheduling requirements, Blaser must obtaining local time information of the user. Otherwise, the serving constraint of "time of day" (e.g. 2:00 pm daily) would be completely negligible, as it would always be 2:00 pm somewhere, regardless of the end user's location, thus resulting in the advertisement always being served. As such, the Examiner contends this understanding is reasonable and this particular limitation has been satisfied by Blaser.) and

a processor (Figure 2, "130").

Blaser does not explicitly disclose

access an ad associated with local time of interest price information, the local time of interest price information indicating a price for an ad in association with a local time;

determine whether the local time of interest price information for the ad is related to the received local time of interest information; and

determine the score for the ad using at least the local time of interest price information if it is determined that the local time of interest price information for the ad is related to the received local time of interest information.

However, Blaser teaches receiving information from the client to determine which information should be sent to the client (column 6, lines 19-27). The data sent to the users has scheduling requirements including the time of day to send (column 6, lines 56-65). The advertisement table includes the preferred times of day at which the advertisement is displayed to users as well as performance information (column 10, lines 12-32). A playlist, containing ad objects, specifies an order in which the advertisements identified in the play list are to be displayed. The playlist also specifies the amount of time that each advertisement is to be displayed (column 10, lines 51-63). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed in Blaser. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is a common practice in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI). The Examiner notes that although Blaser does not explicitly teach prices associated with time, the teachings with regards to the serving the ads at particular times substantiate the fact the advertisers have essentially bid for serving ads only at those particular times. For any other time, the bid associated with those ads can be considered zero, as there are no ads served. As such, it would be obvious for Blaser to include specific price information to ensure cost-effectiveness.

21. As per claim 34, Blaser disclose the apparatus of claim 33 (as rejected above). Blaser further discloses wherein the local time of interest information includes at least one of (a) at least one local time-of-day (column 6, lines 56-

62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range (column 6, lines 56-62, first and last days to send), (f) at least one local day-of-week range, and (g) at least one local season.

22. As per claim 35, Blaser discloses the apparatus of claim 33 (as rejected above). Blaser further discloses wherein the processor uses at least ad performance information (column 13, lines 9-16, OSP compares performance records with target criteria in Ad Performance table).
23. As per claim 36, Blaser discloses the apparatus of claim 33 (as rejected above). Blaser further discloses wherein the processor at least local time of interest ad performance information (column 10, lines 12-31, Advertisement table includes preferred times of day to display advertisement).
24. As per claim 37, Blaser discloses the apparatus of claim 33 (as rejected above). Blaser further discloses wherein the local time of interest information is end user local time information provided in the request (column 3, lines 39-

47, ad server receives information about user, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements).

25. As per claim 38, Blaser discloses the apparatus of claim 37 (as rejected above). Blaser further discloses wherein

the end user local time information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range (column 6, lines 56-62, first and last days to send), (f) at least one local day-of-week range, and (g) at least one local season.

26. As per claim 39, Blaser discloses the apparatus of claim 37 (as rejected above). Blaser further discloses wherein

the processor uses at least ad performance information (column 13, lines 9-16, OSP compares performance records with target criteria in Ad Performance table).

27. As per claim 40, Blaser discloses the apparatus of claim 37 (as rejected above). Blaser further discloses wherein

the means for determining the score further use at least end user local time ad performance information (column 10, lines 12-31, Advertisement table includes preferred times of day to display advertisement).

28. As per claim 43, Blaser discloses the apparatus of claim 41 (as rejected below).

Blaser does not explicitly disclose wherein

the processor uses at least ad price information.

However, Blaser teaches receiving information from the client to determine which information should be sent to the client (column 6, lines 19-27). The data sent to the users has scheduling requirements including the time of day to send (column 6, lines 56-65). The advertisement table includes the preferred times of day at which the advertisement is displayed to users as well as performance information (column 10, lines 12-32). A playlist, containing ad objects, specifies an order in which the advertisements identified in the play list are to be displayed. The playlist also specifies the amount of time that each advertisement is to be displayed (column 10, lines 51-63). In addition, Blaser teaches a direct correlation

between ad performance and advertiser pricing criterion
(column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed in Blaser. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is a common practice in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI). The Examiner notes that although Blaser does not explicitly teach prices associated with time, the teachings with regards to the serving the ads at particular times substantiate the fact the advertisers have essentially bid for serving ads only at those particular times. For any other time, the bid associated with those ads can be considered zero, as there are no ads served. As such, it would be obvious for Blaser to include specific price information to ensure cost-effectiveness.

29. As per claim 44, Blaser discloses the apparatus of claim 41 (as rejected below).

Blaser does not explicitly disclose wherein

the the processor uses at least local time of interest ad price information.

However, Blaser teaches receiving information from the client to determine which information should be sent to the client (column 6, lines 19-27). The data sent to the users has scheduling requirements including the time of day to send (column 6, lines 56-65). The advertisement table includes the preferred times of day at which the advertisement is displayed to users as well as performance information (column 10, lines 12-32). A playlist, containing ad objects, specifies an order in which the advertisements identified in the play list are to be displayed. The playlist also specifies the amount of time that each advertisement is to be displayed (column 10, lines 51-63). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed in Blaser. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is a common practice in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI). The Examiner notes that although Blaser does not explicitly teach prices associated with time, the teachings with regards to the serving the ads at particular times substantiate the fact the advertisers have essentially bid for serving ads only at those particular times. For any other time, the bid associated with those ads can be considered zero, as there are no ads served. As such, it would be obvious for Blaser to include specific price information to ensure cost-effectiveness.

30. As per claim 47, Blaser discloses the apparatus of claim 45 (as rejected below).

Blaser does not explicitly disclose wherein

the processor uses at least ad price information.

However, Blaser teaches receiving information from the client to determine which information should be sent to the client (column 6, lines 19-27). The data sent to the users has scheduling requirements including the time of day to send (column 6, lines 56-65). The advertisement table includes the preferred times of day at which the advertisement is displayed to users as well as performance information (column 10, lines 12-32). A playlist, containing ad objects, specifies an order in which the advertisements identified in the play list are to be displayed. The playlist also specifies the amount of time that each advertisement is to be displayed (column 10, lines 51-63). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed in Blaser. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is a common practice in the art that

advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI). The Examiner notes that although Blaser does not explicitly teach prices associated with time, the teachings with regards to the serving the ads at particular times substantiate the fact the advertisers have essentially bid for serving ads only at those particular times. For any other time, the bid associated with those ads can be considered zero, as there are no ads served. As such, it would be obvious for Blaser to include specific price information to ensure cost-effectiveness.

31. As per claim 48, Blaser discloses the apparatus of claim 45 (as rejected below).

Blaser does not explicitly disclose wherein
the processor uses at least end user local time ad price information.

However, Blaser teaches receiving information from the client to determine which information should be sent to the client (column 6, lines 19-27). The data sent to the users has

scheduling requirements including the time of day to send (column 6, lines 56-65). The advertisement table includes the preferred times of day at which the advertisement is displayed to users as well as performance information (column 10, lines 12-32). A playlist, containing ad objects, specifies an order in which the advertisements identified in the play list are to be displayed. The playlist also specifies the amount of time that each advertisement is to be displayed (column 10, lines 51-63). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed in Blaser. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is a common practice in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI). The Examiner notes that although Blaser does not explicitly teach prices associated with time, the

teachings with regards to the serving the ads at particular times substantiate the fact the advertisers have essentially bid for serving ads only at those particular times. For any other time, the bid associated with those ads can be considered zero, as there are no ads served. As such, it would be obvious for Blaser to include specific price information to ensure cost-effectiveness.

32. As per claim 49, Blaser discloses a computer-readable medium having embodied thereon a computer program configured to provide digital advertisements, the medium comprising one or more code segments that, when executed on a processor, cause the processor to:

receive a request for one or more digital advertisements in response to user input from an end user (column 9, lines 19-40, user requests data for OSP server, see also column 3, lines 39-47, ad server receives information about user, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements);

receive end user local time of interest information associated with the request, wherein the local time of interest information is configured to support differences between a local time for a remote computer and a local time

for the host and wherein the local time of interest information describes the local time for the remote computer (column 3, lines 39-47, ad server receives information about user, see also col. 4, lines 50-67, advertisements targeted and sent to users based on the user's geographic location and scheduling requirements of the ads, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements) (The Examiner understands that if Blaser is obtaining user information including geographic information and the serving of advertisements is controlled by time of day scheduling requirements, Blaser must obtaining local time information of the user. Otherwise, the serving constraint of "time of day" (e.g. 2:00 pm daily) would be completely negligible, as it would always be 2:00 pm somewhere, regardless of the end user's location, thus resulting in the advertisement always being served. As such, the Examiner contends this understanding is reasonable and this particular limitation has been satisfied by Blaser.); and

for at least one of a plurality of digital advertisements: provide the digital advertisement with a highest score in response to the received request (column 12, lines 1-53, correlation or match between the user and the pool of

available advertisements, OSP server performs a best fit-analysis between the user and the available advertisements and compiles a list of advertisements that are particularly suited for the user, a set of best-fit advertisements for the user is then compiled by the OSP server, play list established based on best-fit analysis, user is regularly provided with an update optimized player).

Blaser does not explicitly disclose

determine whether the digital advertisement has local time of interest price information that is related to the local time of interest information recieved; and

if it is determined that the digital advertisement has local time of interest price information that is related to the local time of interest information accepted, then determine a score using at least the local time of interest price information.

However, Blaser teaches receiving information from the client to determine which information should be sent to the client (column 6, lines 19-27). The data sent to the users has scheduling requirements including the time of day to send (column 6, lines 56-65). The advertisement table includes the

preferred times of day at which the advertisement is displayed to users as well as performance information (column 10, lines 12-32). A playlist, containing ad objects, specifies an order in which the advertisements identified in the play list are to be displayed. The playlist also specifies the amount of time that each advertisement is to be displayed (column 10, lines 51-63). Blaser teaches examining ad performance in similar demographics (column 14, lines 15-20) and comparing performance records with ad targeting criterion (column 13, lines 9-16). In addition, Blaser teaches a direct correlation between ad performance and advertiser pricing criterion (column 3, lines 14-30).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaser to include price information in addition to the performance information already disclosed in Blaser. As per the teachings of Blaser, there is a direct correlation between ad performance and advertiser pricing criterion and it is a common practice in the art that advertisers determine pricing criterion and bidding schemes based on performance of the ads. This would allow the advertiser to ensure they are getting the best Return on Investment (ROI). The Examiner notes that although Blaser does

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not explicitly teach prices associated with time, the teachings with regards to the serving the ads at particular times substantiate the fact the advertisers have essentially bid for serving ads only at those particular times. For any other time, the bid associated with those ads can be considered zero, as there are no ads served. As such, it would be obvious for Blaser to include specific price information to ensure cost-effectiveness.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

33. **Claims 17-18, 21-22, 41-42 and 45-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Blaser et al. (US 6,757,661 B1) (hereinafter Blaser).**

34. As per claim 17, Blaser discloses a computer-implemented method for determining a score of an ad, the method being performed on a host and comprising:

receiving, using the host, local time of interest information associated with a request, wherein the local time of interest information is **configured to support differences between** a local time for a remote computer and a local time for the host and wherein the local time of interest information describes the local time for the remote computer (column 3, lines 39-47, ad server receives information about user, see also col. 4, lines 50-67, advertisements targeted and sent to users based on the user's geographic location and scheduling requirements of the ads, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements) (The Examiner understands that if Blaser is obtaining user information including geographic information and the serving of advertisements is controlled by time of day scheduling requirements, Blaser must obtaining local time information of

the user. Otherwise, the serving constraint of "time of day" (e.g. 2:00 pm daily) would be completely negligible, as it would always be 2:00 pm somewhere, regardless of the end user's location, thus resulting in the advertisement always being served. As such, the Examiner contends this understanding is reasonable and this particular limitation has been satisfied by Blaser.);

accessing, using the host, an ad associated with local time of interest performance information, the local time of interest performance information indicating a performance for an ad in association with a local time (column 3, lines 39-47, information received from user, best-fit match is performed and advertisements are displayed to the users accordingly, based on the performance, the ad server refines the best-fit matches and display order for the user, see also column 10, lines 12-63);

determining, using the host, whether the local time of interest performance information for the ad is related to the received local time of interest information (Fig. 8, "815", see also column 14, lines 15-20, ad performance examined to determine if ad exhibits a strong response from other users in similar demographic); and

if it is determined that the local time of interest performance information for the ad is related to the local time of interest information accepted, then using the host to determine the score for the ad using at least the local time of interest performance information (column 13, lines 9-16, OSP compares performance records with target criteria in Ad Performance table).

35. As per claim 18, Blaser discloses the method of claim 17 (as rejected above). Blaser further discloses wherein

the local time of interest information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range, (f) at least one local day-of-week range (column 6, lines 56-62, first and last days to send), and (g) at least one local season.

36. As per claim 21, Blaser discloses the method of claim 17 (as rejected above). Blaser further discloses wherein

the local time of interest information includes end user local time information (column 3, lines 39-47, ad server receives information about user, see also column 6, lines 29-

62, information from client received and data sent according to scheduling requirements).

37. As per claim 22, Blaser discloses the method of claim 21 (as rejected above). Blaser further discloses wherein

the end user local time information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range, (f) at least one local day-of-week range (column 6, lines 56-62, first and last days to send), and (g) at least one local season.

38. As per claim 41, Blaser discloses an apparatus for determining a score of an ad, the apparatus comprising:

a communications interface for receiving local time of interest information associated with a request, wherein the local time of interest information is **configured to support differences between** a local time for a remote computer and a local time for the host and wherein the local time of interest information describes the local time for the remote computer (Figure 2, "120", see also column 3, lines 39-47, ad server receives information about user, see also col. 4, lines 50-67,

advertisements targeted and sent to users based on the user's geographic location and scheduling requirements of the ads, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements) (The Examiner understands that if Blaser is obtaining user information including geographic information and the serving of advertisements is controlled by time of day scheduling requirements, Blaser must obtaining local time information of the user. Otherwise, the serving constraint of "time of day" (e.g. 2:00 pm daily) would be completely negligible, as it would always be 2:00 pm somewhere, regardless of the end user's location, thus resulting in the advertisement always being served. As such, the Examiner contends this understanding is reasonable and this particular limitation has been satisfied by Blaser.), and

a processor (Figure 2, "130") **structured and arranged to:**
access an ad associated with local time of interest performance information, the local time of interest performance information indicating a performance for an ad in association with a local time (column 3, lines 39-47, information received from user, best-fit match is performed and advertisements are displayed to the users accordingly, based on the performance, the ad server refines the best-fit

matches and display order for the user, see also column 10, lines 12-63);

determine whether the local time of interest performance information for the ad is related to the received local time of interest information (Fig. 8, "815", see also column 14, lines 15-20, ad performance examined to determine if ad exhibits a strong response from other users in similar demographic); and

determine the score for the ad using at least the local time of interest performance information if it is determined that the local time of interest performance information for the ad is related to the received local time of interest information (column 13, lines 9-16, OSP compares performance records with target criteria in Ad Performance table).

39. As per claim 42, Blaser discloses the apparatus of claim 41 (as rejected above). Blaser further discloses wherein

the local time of interest information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range (column 6,

lines 56-62, first and last days to send), (f) at least one local day-of-week range, and (g) at least one local season.

40. As per claim 45, Blaser discloses the apparatus of claim 41 (as rejected above). Blaser further discloses wherein

the local time of interest information includes end user local time information (column 3, lines 39-47, ad server receives information about user, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements).

41. As per claim 46, Blaser discloses the apparatus of claim 45 (as rejected above). Blaser further discloses wherein

the end user local time information includes at least one of (a) at least one local time-of-day (column 6, lines 56-62, time of day to send), (b) at least one local time-of-day range, (c) at least one local date, (d) at least one local day-of-week, (e) at least one local date range (column 6, lines 56-62, first and last days to send), (f) at least one local day-of-week range, and (g) at least one local season.

Response to Arguments

42. Applicant's arguments filed 10/09/2009 have been fully considered but they are not persuasive.

43. In the remarks, the Applicant argues the following with respect to claim 9, **as amended**:

(a) Blaser fails to describe or suggest "receiving, using the host, local time of interest information associated with a request, wherein the local time of interest information is configured to support differences between a local time for a remote computer and a local time for the host and wherein the local time of interest information describes the local time for the remote computer."; and

(b) Blaser does indicate that certain ads can be scheduled. However, the portion of Blaser that describes that advertisements may be scheduled fails to describe the notion that the local time of interest information is configured to support differences between a local time for a remote computer and a local time for the host, where the local time of interest information describes the local time for the remote computer.

In response to these arguments, the Examiner respectfully disagrees.

The Examiner would first like to note that the particular element that "local time of interest information is configured to support differences between..." is considered intended use and more of an implicit limitation that would implicitly result from obtaining the local time of interest information, more than an explicitly claimed, heavily-weighted limitation. However, even when considering the "intended use" element, Blaser discloses the following: (column 3, lines 39-47, ad server receives information about user, see also col. 4, lines 50-67, advertisements targeted and sent to users based on the user's geographic location and scheduling requirements of the ads, see also column 6, lines 29-62, information from client received and data sent according to scheduling requirements).

Based on this disclosure, it is clear that Blaser is targeting advertisements based on user information and demographics, the demographics including the geographic location of the user. The Examiner understands that if Blaser is obtaining user information including geographic information and the serving of advertisements is controlled by time of day scheduling requirements, Blaser must obtaining local time information of the user. Otherwise, the serving constraint of

"time of day" (e.g. 2:00 pm daily) would be completely negligible, as it would always be 2:00 pm somewhere, regardless of the end user's location, thus resulting in the advertisement always being served. As such, the Examiner contends this understanding is reasonable and this particular limitation has been satisfied by Blaser.

Conclusion

44. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

45. Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM A. BRANDENBURG whose telephone number is (571)270-5488. The examiner can normally be reached on Monday-Thursday 6:30 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service

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Representative or access to the automated information system,
call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. A. B./

Examiner, Art Unit 3622

/J. V./

Examiner, Art Unit 3622

/Eric W. Stamber/

Supervisory Patent Examiner, Art Unit 3622